

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

Petitioner,

VS.

SONIA MARILU MORAN-GUTIERREZ

Respondent.

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NO. 3-09-CV-2071-K

**FINDINGS AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

The United States of America, on behalf of the Dallas Immigration Court, has filed a petition to enforce a subpoena served on Respondent Sonia Marilu Moran-Gutierrez. For the reasons stated herein, the petition should be granted.

I.

On June 29, 2009, respondent was served with a subpoena directing her to appear before Judge Deitrich Sims of the Dallas Immigration Court on August 28, 2009 at 10:30 a.m., then and there to give testimony and produce documents relating to the 1999 arrest of Samuel Aguilar, who is the subject of a removal proceeding. Respondent failed to appear in court as required. The government filed this action to enforce the subpoena on November 2, 2009.

A show cause hearing was held on December 4, 2009 at 9:00 a.m. before U.S. Magistrate Judge Jeff Kaplan. Respondent appeared *pro se*. Assistant U.S. Attorney Tammy Parker appeared for the government. Sam Moreno, a qualified Spanish language interpreter, translated the proceedings. After considering the petition and the exhibits attached thereto, the court determines that the subpoena should be enforced.

II.

If a witness neglects or refuses to appear and testify as directed by a subpoena issued by an immigration court, a federal district court may "issue an order requiring the witness to appear and testify and to produce the books, papers, or documents designated in the subpoena." 8 C.F.R. § 287.4(d). At the show cause hearing, the government asked respondent to appear in immigration court on January 22, 2010 at 1:00 p.m., and she agreed to do so. The court should enforce the subpoena consistent with the agreement of the parties.

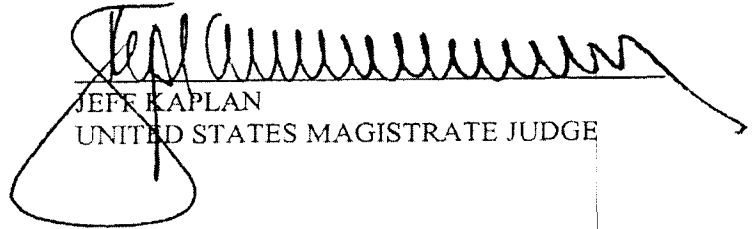
RECOMMENDATION

The government's petition to enforce the subpoena should be granted. Respondent Sonia Marilu Moran-Gutierrez should be ordered to appear in person before Judge Deitrich Sims at the Dallas Immigration Court, 1100 Commerce Street, Room 404, Dallas, Texas, on **January 22, 2010 at 1:00 p.m.** At that time, respondent will be required to give testimony and produce documents relating to Samuel Aguilar's arrest for assault on May 2, 1999.

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the

district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*,
79 F.3d 1415, 1417 (5th Cir. 1996).

DATED: December 4, 2009.



JEFF KAPLAN
UNITED STATES MAGISTRATE JUDGE